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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,453	10/30/2003	Stephen N. Weiss	4110-276U1 (405)	2854
570	7590	03/20/2006	EXAMINER	
AKIN GUMP STRAUSS HAUER & FELD L.L.P. ONE COMMERCE SQUARE 2005 MARKET STREET, SUITE 2200 PHILADELPHIA, PA 19103			CEGIELNIK, URSZULA M	
			ART UNIT	PAPER NUMBER
			3711	

DATE MAILED: 03/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/699,453	Applicant(s) WEISS ET AL.	
	Examiner Urszula M. Cegielnik	Art Unit 3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4,5 and 17-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4,5 and 17-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/12/05; 01/05/06</u> . | 6) <input type="checkbox"/> Other: _____ |

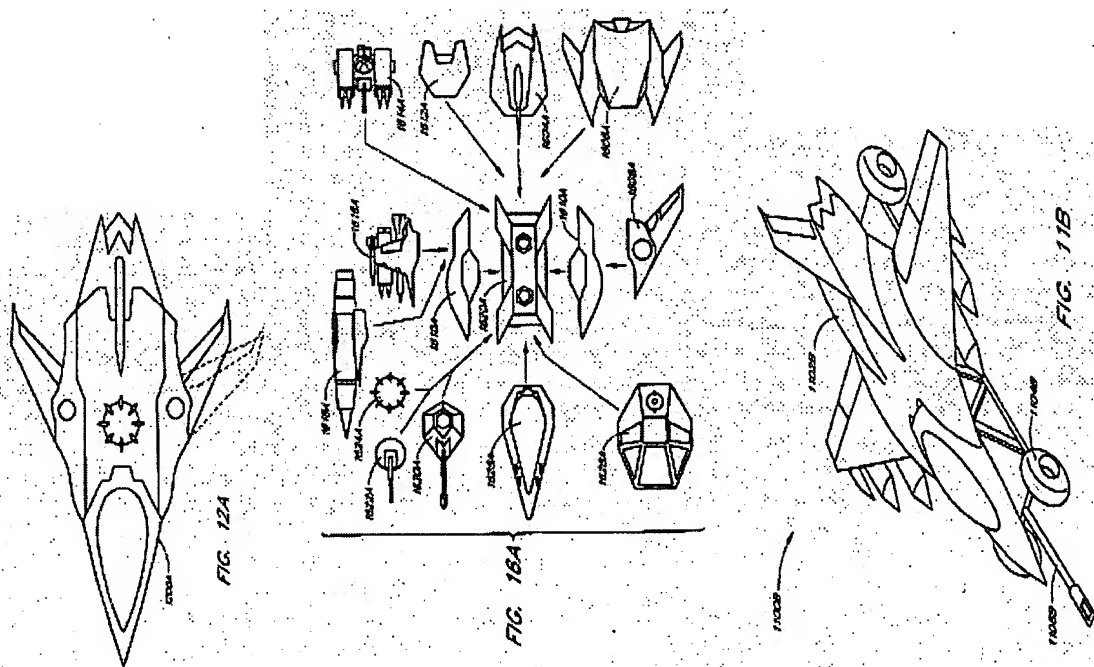
DETAILED ACTION***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 4, 5, and 17-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Tachau et al.



Tachau et al. disclose a remote controlled toy having a variety of embodiments which include at least an on-board power supply (paragraph 0068, lines 1-7)); at least a

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plurality of wheels (1104B in Figure 11B, for example) supporting the vehicle for itinerant movement (paragraph 0079, lines 10-12); at least one motor operably coupled to at least one of the wheels to provide at least part of the itinerant movement of the vehicle (paragraph 0079, lines 10-12); a controller circuit configured to selectively supply power from the power supply to the at least one motor in response to commands from a transmitter (paragraph 0061, lines 13-20*) remote from the vehicle to move the toy vehicle (paragraph 0064, lines 1-2); a hinged (paragraph 0039, lines 1-4), three part chassis (see Figure 16A, for example) having a first longitudinal end and a second, opposing longitudinal end and including a central chassis portion (1620A) having opposing first and second lateral sides; a first lateral chassis portion (1610A) pivotally coupled with the central chassis portion (1620A) on the first lateral side of the central chassis portion (1620A), and a second lateral chassis portion (1610A) pivotally coupled to the central chassis portion (1620A) on a second lateral side of the central chassis portion, the first and second lateral chassis portions (1610A) are coupled so as to pivot with respect to the central chassis portion (1620A) in a common plane (the wings are swept back or swung forward around a first axis, see Figures 12A and 27, paragraph 0052, lines 1-8); a signal is generated by a switch capable of detecting a position of at least one of the lateral chassis portions relative to the central chassis portion (paragraph 0038); a pair of links (see Figure 27 and paragraph 0052, lines 1-5, each link being pivotally coupled to the central chassis portion and one of the first and second lateral chassis portion at the first longitudinal of the vehicle to permit the first longitudinal end of each lateral chassis portion to pivot away from and toward the central chassis portion

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and a separate light source in each link (paragraphs 0039; 0052, lines 17-20, and 0063).

Response to Arguments

Applicant's arguments filed 12 December 2005 have been fully considered but they are not persuasive.

Applicant argues that Tachau fails to disclose the feature of a hinged, three-part chassis including first and second lateral chassis portions pivotally coupled to a central chassis portion. Applicant states that a "chassis" as defined by Merriam-Webster's Collegiate Dictionary (Eleventh Edition, 2003) as "the frame and working parts (as of an automobile or electronic device) exclusive of the body or housing". The Examiner submits that within the same dictionary entry of chassis there is an alternate definition "the supporting frame of a structure".

Applicant further contends that Tachau fails to disclose a light source controlled to illuminate in response to a signal generated by a switch adapted to detect a position of at least one lateral chassis portion. The Examiner submits that the claim recites "the signal is generated by a switch adapted to detect a position of at least one of the lateral chassis portions relative to the central chassis portion". The limitation "a light source controlled to illuminate in response" is not recited together with the above limitation.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a):

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Urszula M. Cegielnik whose telephone number is 571-272-4420. The examiner can normally be reached on Monday through Friday, from 5:45AM-2:15PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris H. Banks can be reached on 571-272-4419.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300 for both regular and After Final communications.

Urszula M. Cegielnik
Assistant Examiner
Art Unit 3714


DERRIS H. BANKS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700